

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

VS.

EMILIO PINA-HERNANDEZ,

Defendant.

8:08CR385

ORDER

This matter is before the court on the defendant's third motion (Doc. 28) to continue trial, which was most recently continued from January 13 to February 24, 2009. For cause shown, trial will be continued to March 31, 2009.

IT IS ORDERED that the motion is granted, as follows:

1. The jury trial now set for February 24, 2009 is continued to **Tuesday, March 31, 2009.**

2. In accordance with 18 U.S.C. § 3161(h)(8)(A), the court finds that the ends of justice will be served by granting this continuance and outweigh the interests of the public and the defendant in a speedy trial. Any additional time arising as a result of the granting of this motion, that is, the time between **February 24, 2009 and March 31, 2009**, shall be deemed excludable time in any computation of time under the requirement of the Speedy Trial Act because counsel require additional time to adequately prepare the case, taking into consideration due diligence of counsel and the novelty and complexity of this case. The failure to grant additional time might result in a miscarriage of justice. 18 U.S.C. § 3161(h)(8)(A) & (B)(iv).

3. The defendant shall file an updated affidavit or declaration regarding speedy trial, as required by [NECrimR 12.1 and/or 12.3](#), no later than **February 25, 2008**.

DATED February 17, 2009.

BY THE COURT:

s/ F.A. Gossett
United States Magistrate Judge